

(New)

Chapter 26

Rules for Installment Payment Plans and Other Court Collection Activities

Rule 26.1 Scope. The following provisions govern installment payment plans and other collection activities of the judicial branch. These procedures shall apply to all court debt as defined in Iowa Code section 602.8107(1), and provide for the efficient and expeditious collection of court debt.

Rule 26.2 Installment payment plans.

26.2(1) A person shall be instructed to pay the court debt with the office of the clerk of court on the date of imposition of the court debt.

26.2(2) At sentencing or upon imposition of a fine, if a person establishes that the person does not have the financial means to pay the court debt in full on the date it is imposed, the judicial officer may order the person to pay the court debt in full within 30 days from the date it is imposed.

26.2(3) At sentencing or upon imposition of a fine, if a person establishes that the person does not have the financial means to pay the court debt in full within 30 days from the date it is imposed, the judicial officer may:

- a.* Instruct the person to contact the Centralized Collection Unit (CCU) to request a payment plan; or
- b.* Establish an installment payment plan pursuant to the rules contained in this chapter.

26.2(4) If the total amount of court debt due at the time of imposition is \$300 or less, a judicial officer shall not order an installment payment plan.

26.2(5) When ordering an installment payment plan, the judicial officer has discretion to require a down payment.

26.2(6) Except in cases involving a restitution plan of payment pursuant to Iowa Code section 907.8 or 910.7, a judicial officer shall:

a. Require the first payment to be due no later than 30 days from the date of imposition;

b. Structure the payments to be due once a month; and

c. Require the payments to be at least \$50 each month.

26.2(7) A judicial officer shall not order an installment payment plan for any court debt that is already deemed delinquent pursuant to Iowa Code section 602.8107(2)(d).

26.2(8) A judicial officer shall not waive or forgive any installment payments or continue or extend the due date for any installment payment.

26.2(9) If a person fails to make an installment payment within 30 days after the due date, the entire remaining debt shall be deemed delinquent and the judicial branch will immediately assign the entire remaining debt to CCU for additional collection procedures.

26.2(10) If a person is granted a court-appointed attorney, the person shall be required to reimburse the state for the total cost of legal assistance provided to the person. Legal assistance shall include not only the expense of the public defender or an appointed attorney, but also the expense of transcripts, witness fees, expenses, and any other goods or services required by law to be provided to an indigent person entitled to an appointed attorney.

a. If the person receiving legal assistance is convicted in a criminal case, the court shall order the payment of the total costs and fees for legal assistance as restitution to the extent the person is reasonably able to pay, or the court shall order the performance of community service in lieu of such payments, in accordance with Iowa Code chapter 910.

b. If the person receiving legal assistance is acquitted in a criminal case or is a party in a case other than a criminal case, the court shall order payment of all or a portion of the total costs and fees incurred for legal assistance, to the extent the person is reasonably able to pay, after an inquiry that includes notice and reasonable opportunity to be heard.

c. After the judicial officer makes a rule 26.2(10) (a) or (b) determination, the judicial officer shall set forth in the sentencing order the amount the person is required to pay for legal assistance.

26.2(11) A judicial officer may modify an existing, nondelinquent installment payment plan to correct an error or omission regarding the amount of court debt defendant owes.

26.2(12) A judicial officer may combine a person's nondelinquent installment payment plans into a single installment payment plan or modify or restructure an existing, nondelinquent installment payment plan to include new court debts if the combined, modified, or restructured installment payment is at least \$50 a month.

26.2(13) A judicial officer shall not initiate court proceedings sua sponte as a means of collecting court debt. Once the court debt becomes delinquent 30 days after imposition or 30 days after an installment payment is due, the statutory procedures set forth in Iowa Code section 602.8107 govern.

Rule 26.3 Court debt collection procedures. Judicial officers shall comply with the following procedures with regard to court debt, whether or not subject to an installment payment plan: Except for collection orders, procedures, and arrangements that are the subject of a petition for judicial review, or a notice of bankruptcy from a federal court, a judicial officer shall not block, rescind, waive, modify, void, or stay any installment payment plan or other court debt collection agreement or procedure arranged, initiated, or enforced by a county attorney pursuant to Iowa Code section 602.8107(4) and Iowa Code section 321.210B, by CCU pursuant to Iowa Code section 602.8107(3), by a county treasurer pursuant to Iowa Code section 321.40(9), by the department of transportation pursuant to Iowa Code section 321.210A, by the department of revenue pursuant to Iowa Code section 8A.504, by the clerk of court pursuant to Iowa Code section 602.8103(6), or by a private collection agency approved by the state court administrator pursuant to Iowa Code section 602.8107(5). As used in this rule, court debt collection agreements and procedures include but

are not limited to garnishments, administrative levies, wage assignments, installment payment plans, executions, income tax offsets, driver's license suspensions, vehicle registration holds, professional licensure suspensions, and other procedures authorized by law.

Rule 26.4 Community service. A judicial officer shall not order community service in lieu of monetary payment of court debt unless the judicial officer determines that community service will be prudent and effective for defendant and that the community service can be administered within existing court resources.

26.4(1) A judicial officer shall not order community service if defendant's total court debt is \$300 or less.

26.4(2) When defendant is not reasonably able to pay all or part of defendant's court debt, community service may be substituted in lieu of the following: monetary payment for fines; crime victim compensation program reimbursement; public agency restitution; court costs, including correctional fees approved pursuant to Iowa Code section 356.7; court-appointed attorney fees ordered pursuant to Iowa Code section 815.9, including the expense of a public defender; contribution to a local anticrime organization; or medical assistance program restitution.

26.4(3) A judicial officer shall not order community service in lieu of victim restitution.

26.4(4) All orders for community service in lieu of monetary payment of court debt shall require defendant to perform the number of hours of community service that are equal to the total amount of the court debt divided by the current minimum State of Iowa wage rate.

26.4(5) A judicial officer shall order a date by which defendant is to have completed the community service.

26.4(6) A judicial officer shall not order community service in lieu of monetary payment of court debt that is already deemed delinquent pursuant to Iowa Code section 602.8107(2)(d) because it has not been paid within 30 days

after it was assessed or within 30 days after the payment due date of an installment payment plan.

Rule 26.5 Supervised probation. If the judicial officer orders probation under Iowa Code chapter 907, defendant is subject to the conditions established by the judicial district department of correctional services subject to the approval of the court, including a restitution plan of payment. The probation plan of payment shall not incorporate any delinquent court debt obligations of defendant.

Rule 26.6 Form for installment payment plan order. A court-ordered installment payment plan shall be in substantially the following form.

Rule 26.6—Form 1: Installment Payment Plan Order

In the Iowa District Court for _____ County

<input type="checkbox"/> State of Iowa, <input type="checkbox"/> City of _____, Plaintiff, vs. _____, Defendant.	No. _____ Installment Payment Plan Order (Not to be used for court debt of \$300 or less.)
---	---

Upon sentencing, **it is ordered** that Defendant shall pay any and all fines, surcharges, court costs, fees, victim restitution, and attorney fees as ordered in Defendant's Judgment and Sentence dated the ____ day of _____, 20____.

Note: Attorney fees and other costs, if unavailable at the time of sentencing, may be more than the record reflects in the clerk's office. Those amounts will be added to Defendant's total amount of court debt when they become available and are subject to the same terms as specified below. Sheriff room and board fees, which are not included in the Installment Payment Plan Order, will be charged as a civil judgment for which Defendant is separately responsible.

Terms of Installment Payment Plan:

Defendant ____ (is) ____ (is not) required to make a down payment of \$_____ to the clerk of court's office.

Defendant shall make a minimum payment of \$_____ per month (must be at least \$50), beginning the ____ day of _____, 20____ (no later than 30 days from the date of imposition), and on the same day of each month thereafter, to the clerk of court office.

Failure to Make Installment Payments:

Defendant is **notified** that if he or she fails to pay any monthly payment on the date and in the amount as listed above within 30 days of the date the installment payment is due, action regarding Defendant's motor vehicle registration or suspension of Defendant's driver's license, or both, may be initiated. In addition, the total remaining court debt will be considered delinquent and sent to collection, and up to 25% may be added to the delinquent amount.

Order dated

Judicial Officer

Please notify the clerk of court of any change of address.

Note: This installment payment plan does not affect the State of Iowa's procedure to intercept any state income tax refund or any vendor amounts due Defendant, or the clerk of court's ability to intercept monetary amounts held by the clerk of court and payable to Defendant.